

Dear Ms. Stehle,

CMS has reviewed the revised Statewide Transition Plan (STP) that Arkansas sent on December 15, 2015, in response to the feedback letter that CMS sent the state on September 18, 2015, and appreciates the state's efforts in responding to CMS' feedback and in designing and implementing its transition plan. CMS has a few follow-up questions to clarify some aspects of the state's STP.

General:

1. As requested in earlier feedback provided in a letter on September 16, 2015, please clearly match remedial strategies and milestones in the STP narrative to the actions and dates in the timeline chart. CMS would like to see each action mentioned in the STP narrative include a citation to the row where the action is denoted in the timeline. In addition, as discussed in more detail below, CMS has concerns about the timing of some of the state's activities. Please provide more information on how the state foresees achieving compliance with these timeframes.
2. Please add rows for public notice/comment periods to the timeline. For example, please add dates for when an STP with all of the state's systemic assessment outcomes, and specific remediation plans, will be posted for public comment, and when an STP with all of the state's site-specific assessment outcomes and specific remediation plans will be posted for public comment.
3. CMS also asks the state to please ensure that all information is updated in the STP with each submission, recognizing that the state is considering and/or working on a number of changes. Please also update any timeline shifts, or add detail when a step is completed. For example, the timeline indicates that the self-assessment findings for Residential Assisted Living settings (Action Item A-17) would be posted publicly by 12/31/15. Please update this date, or provide the URL where the findings were posted.
4. In addition, please provide an overall summary of themes from the state's public comment process, rather than themes by commenter as the comments are currently organized. For example, what types of comments came up across commenters? CMS observes that the state sends responses to each individual or group who provide feedback on their STP during the public comment period and commends the state for this outreach and engagement effort.

Systemic Assessment

5. The systemic assessment lays essential groundwork for both the state's transition and ongoing monitoring for compliance. It is important to note that the state must fully assess the licensing and certification standards. The state will then be able to identify which standards are need to be amended, and what updates need to be disseminated and provider training conducted. In addition, the amended standards will need to be in place prior to the state's ongoing monitoring efforts so that the staff doing the monitoring have updated information and authority when they are completing their assessments.

With respect to the state's systemic assessment, please provide a crosswalk of each element the state reviewed as part of its systemic assessment (i.e. each statutory or regulatory, parts of manuals or rules, other standards that may be impacted by the settings rule, etc.) against the federal requirements.

- a. This crosswalk should include the outcomes of the review (was each the element compliant with, not compliant with, or silent in regard to the federal requirements?) and remedial actions the state will take to bring each element into compliance. For example, if a regulation must be amended, what are the steps that the state will need to take to complete this amendment, and what will the timing of each step be?
- b. Please ensure that the state's licensing and monitoring regulations, rules, and policies are included in this crosswalk.
 - i. CMS notes that DAAS was scheduled to complete a review and validation of "provider standards (licensing, policies, etc.)" by 1/01/16 for residential services excluding Assisted Living, and 12/29/15 for Assisted Living (Timeline row A-3, A-6). Each standard reviewed should be included in the crosswalk.
 - ii. CMS notes that DAAS is scheduled to complete a review and validation of "provider standards (licensing, policies, etc.)" by 1/01/16 for residential services excluding Assisted Living, and 12/29/15 for Assisted Living (Timeline row A-3, A-6). Each standard reviewed should be included in the crosswalk.
 - iii. In addition, in the STP, please provide remediation steps and timeframes for every step (under all standards) that needs to be amended or added.

By July 2016, CMS would like the systemic assessment to be completed, and an STP to be submitted to CMS. This STP should be posted to public comment prior to submission to CMS and contain a crosswalk detailing the final outcomes of the systemic assessment, related remedial actions the state will take, and corresponding timeframes. Note that the public comment period will need to follow the CMS guidelines, including notice and input options that are electronic and hard copy.

Site-Specific Assessments

6. CMS would like the site-specific assessment to be completed, with final outcomes and related remedial actions the state will take detailed and included in a revised STP, which will then posted for public comment, and submitted to CMS by September 2016. Note that, as indicated above, the public comment period will need to follow the CMS guidelines, including notice and input options that are electronic and hard copy.
7. Please provide estimates of the number of settings that: comply with the federal regulations based on systemic assessment, do not comply with the regulations but the state believes can comply with remedial efforts, do not comply with the regulations but the state will submit to CMS to consider under heightened scrutiny, and those that cannot comply with the regulations and will be removed from the state's HCBS program. CMS acknowledges that the state has not finished its assessments, but is looking for the state's best estimate based on current knowledge.
8. CMS requests that the state provide information on how it developed its provider self-assessment. For example, did the state use the CMS exploratory questions in the provider self-assessment (<https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/downloads/exploratory-questions-non-residential.pdf>)? If not, how did the state develop its questions?

9. CMS is concerned with the timing of the assessments for Day Settings. The assessments will not be completed until August 2018, with the final report of results completed by 12/30/18 (D-51 of the timeline). CMS encourages the state to reexamine the timeline to ensure that all sites are able to be fully compliant by March 2019. CMS is concerned that conducting an analysis of day settings in 2018 will not allow the state enough time to meet the 2019 compliance deadline.
10. The state should also clarify when the outcomes of its site-specific assessment will be added to an amended STP, posted for public comment, and submitted to CMS. This should include information on: what compliance issues the state found, the numbers of sites found to have each type of compliance issue, and what remedial action steps the state has required of the sites to come into compliance, as appropriate.
11. Please clarify how the follow-up telephone assessments (A-13, A14 of the timeline) will fit into the broader assessment process. For example, will they be used to clarify provider responses in the self-assessments, and/or request additional information from providers? Please also confirm that these telephone assessments will not take place in lieu of site visits, and that when the state says that it will conduct on site visits it means that state staff will be on the provider site to do the assessment.
12. The STP notes that the subcommittee of the interagency HCBS Settings working group will be developing an onsite assessment tool to validate the data gathered from the provider self-assessments, but it appears the DDS completed site visits for apartments, homes, and group homes (A,H&GH) settings from 7/08/14-9/29/14. Please clarify what on-site reviewers used for an A,H&GH on site visit protocol since the onsite assessment tool is not yet completed. If the state used a different tool during these A,H&GH site visits, please indicate why that tool is not being used for the remainder of the site visits in this process.
13. CMS has some clarifying questions related to the state's site visit process:
 - a. Please provide more detail regarding what is meant by "questionable practices," as related to providers who will receive site visits (STP pg. 8).
 - b. Please specify exactly how many site visits the state will conduct.
 - c. Please ensure that all setting types are represented in the process.
 - d. Please provide more information on the resident/client interviews that state staff will conduct on site, including how many interviews reviewers will do at each site, how reviewers will choose who they interview, and if interviews will be conducted at every site.

Remedial Strategies:

14. In addition to adding information to the STP on remedial actions for providers found not to be out of compliance, as noted above (Issues #6 and #10), please provide more information on the technical assistance or training the state will conduct to help ensure provider compliance. For example, will the state conduct individual or group trainings, or both? Has the state identified any topics yet that it will

include in its trainings? How will the training information be made available to providers? CMS recognizes that the training topics may be augmented as the state completes its thorough analysis of the systemic features, policies, procedures, and regulations since additional compliance topics, or policy changes may need to be communicated.

15. How will the state address provider compliance plans if a provider is out of compliance? How is the state following through on compliance actions to meet the regulatory requirements? How and who will conduct the monitoring of these corrective action plans, and overall provider progress towards compliance? Please clarify the process.
16. The state includes milestones and timeframes for revising and publishing a number of specific standards of the systemic assessment. However, there are a few areas where the state is still working to identify and analyze systemic for example, the “comprehensive set of provider standards” discussed above in point number 2. Please add milestones and timeframes for completing these assessment steps, and for completing any remedial actions needed to address compliance issues based on the assessment.
17. Please provide additional details on how the state will monitor providers’ progress towards completing corrective action steps and, ultimately, coming in to compliance with the settings requirements.

Ongoing Monitoring:

18. The state indicates that sites will be reviewed on an ongoing basis through the licensing and certification process, which includes site visits. Please provide additional details on how the state will use this licensure and certification process to monitor settings, and indicate how often these compliance site-visits, or other processes occur.

Relocation of Beneficiaries:

19. Please provide more detail on the state’s plans for relocating beneficiaries, including what the process will look like from a beneficiary’s perspective, an estimate of the number of beneficiaries who will need to be relocated, and timeframes for the relocation process that will ensure the process is completed by March 2019.

Heightened Scrutiny:

20. Please break out the state’s heightened scrutiny process from the general site-specific assessment process to clarify how the will ensure it identifies all settings that require heightened scrutiny. The state must clearly lay out its process for identifying settings that are presumed to be non-home and community-based. For example, some states are using a combination of site visits and geo-finders to help identify these settings. These are settings for which the state must submit information for the heightened scrutiny process if the state determines, through its assessments, that these settings do have qualities that are home and community-based in nature and do not have the qualities of an institution. If the state determines it will not submit information, the presumption will stand and the state must describe the process for informing and transitioning the individuals involved.

These settings include the following:

- a. Settings located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment;
- b. Settings in a building on the grounds of, or immediately adjacent to, a public institution;
- c. Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS.

21. CMS requests that the state submit a schedule for when it expects to submit each round of heightened scrutiny evidence, for example, will the state send heightened scrutiny requests on a quarterly basis?

CMS would also like to have a call to discuss this email and any questions that you may have related to the content. CMS' contractor, NORC at the University of Chicago, will set this call up.

Thank you,

Sara Rhoades